

**BOARD OF PATENT APPEALS AND INTERFERENCES
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Stephen M. Drummond, *et. al.*
Application No. : 10/824,954 Confirmation No. : 7464
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For : SYSTEMS AND METHODS FOR TRADING EMISSION REDUCTION
BENEFITS
Group Art Unit : 3689
Examiner : Heidi M. Riviere

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Commissioner for Patents
P.O. Box 1450
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APPEAL BRIEF UNDER 37 C.F.R. § 41.37

Sir:

This is an appeal from the decision of Examiner Heidi M. Riviere, Group Art Unit 3689, in the Final Office Action of February 11, 2009 ("Final Action"), rejecting claims **13-15, 20, 21** and **49** in the present application. A Pre-Appeal Brief Conference Request and a Notice of Appeal were filed on June 17, 2009. A Notice of Panel Decision from Pre-Appeal Brief Review was mailed on July 17, 2009.

Applicants herewith request a **one-month** extension of time, which extends the time to file this paper to September 17, 2009.

The Commissioner is hereby authorized to charge the filing fee and the **one-month** extension of time fee, as well as any additional fees which may be required, or credit any overpayment, to Deposit Account No. 50-3938.

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1. REAL PARTY IN INTEREST

The real party in interest of the present application is BGC Partners, Inc., a corporation organized and existing under the laws of the State of Delaware, U.S.A., and having a place of business at 499 Park Avenue, New York, NY 10022.

2. RELATED APPEALS AND INTERFERENCES

There are no known related appeals and interferences.

3. STATUS OF CLAIMS

The following claims are pending and stand rejected in the present application:

- Independent claim **13**.
- Dependent claims **14, 15, 20, 21** and **49**.

All of the pending claims are being appealed:

- Independent claim **13**.
- Dependent claims **14, 15, 20, 21** and **49**.

The following claims were previously cancelled:

- Claims **1-12, 16-19** and **22-48**.

4. STATUS OF AMENDMENTS

No amendments have been filed after the Final Office Action of February 11, 2009.

5. SUMMARY OF CLAIMED SUBJECT MATTER

The presently claimed invention(s) generally relate to systems for avoiding transaction costs associated with trading orders.

5.1. Independent Claim 13

Independent claim 13 is directed to a method for the electronic trading of emission reduction benefits. *See, e.g., Specification, p. 10, ll. 1-5.* The method comprises storing a volume of emission reduction benefit in a memory associated with at least one computing device. *See, e.g., id. at p. 15, ll. 7-14; p. 19, ll. 8-10.* The volume of emission reduction benefit is derived from at least one emission reduction project that is created by a supplier in connection with carbon dioxide equivalent emissions of the supplier. *See, e.g., id. at p. 19, ll. 8-19.* The method also comprises receiving an indication, from a buyer at a point of sale terminal in communication with the at least one computing device, to purchase at least one of a product and a service. *See, e.g., id. at p. 31, ln. 32-p. 32, ln. 15.*

In addition, the method comprises determining an amount of carbon dioxide reduction benefit necessary for the at least one of the product and the service to be emission neutral based at least in part of an amount of carbon dioxide generated by the at least one of the product and the service. *See, e.g., id. at p. 23, ll. 17-31.* The method also comprises communicating to the buyer the amount of carbon dioxide reduction benefit necessary for the at least one of the produce or the service to be emission neutral. *See, e.g., id. at p. 21, ll. 8-27.*

The method also comprises receiving a request from the buyer to purchase at least a portion of the amount of carbon dioxide reduction benefit necessary for the at least one of the product or the service to be emission neutral. *See, e.g., id. at p. 21, ln. 31 -p. 22, ln. 1.*

Additionally, the method comprises reducing the volume of emission reduction benefit to account for the at least a portion of the carbon dioxide benefit purchased by the buyer. See, e.g., id. at p. 23, ll. 8-12. In response to receiving the purchase, buyer is provided with an emission retirement guarantee. See, e.g., id. at p. 22, ll. 16-34. The emission retirement guarantee prevents the purchased amount of emission reduction benefit from being repurchased. See, e.g., id. at p. 22, ll. 27-33.

6. GROUND OF REJECTION TO BE REVIEWED ON APPEAL

The grounds of rejection to be reviewed on appeal are whether:

- Independent claim **13** and dependent claims **14, 15, 20, 21** and **49** are unpatentable under 35 U.S.C. §103(a) over U.S. Publication No. 2002/0143693 (hereinafter “Soestbergen”) in view of U.S. Publication No. 2004/0088179 (hereinafter “Cogen”).

7. ARGUMENT

7.1. Summary of Argument

7.1.1. No *Prima Facie* Showing of Obviousness

Claims **13-15, 20, 21** and **49** were rejected under 35 U.S.C. § 103(a) as being unpatentable over Soestbergen in view of Cogen. Final Action, p. 3-8.

There is no *prima facie* case of obviousness for any of the claims. The Examiner repeatedly mischaracterizes the prior art's teaching. Rather than disclosing the claimed limitations, as purported by the Examiner, the cited-portions of Cogen, in actuality, describe something completely different.

For example, the Examiner alleges that paragraphs 50 and 59 of Cogen disclose the following limitation of claim **21**: “*providing the buyer with an opportunity to search for the emission reducing project*.” Final Action, p. 7-8. But in actuality, paragraphs 50 and 59 merely disclose creating records in a database for the purposes of complying with regulatory requirements. There is no teaching or suggestion, whatsoever, of an ability “*to search*” for a particular emission reducing project. Thus, it is wholly inaccurate for the Examiner to characterize paragraphs 50 and 59 as teaching “*providing the buyer with an opportunity to search for the emission reducing project*,” as recited by claim **21**.

Furthermore, the Examiner fails to provide any motivation for combining or modifying the references. Even though the Examiner alleges that paragraph 19 of Cogen supports the alleged motivation to modify claim **13**, in actuality, paragraph 19 of Cogen offers no such teaching or suggestion. At best, paragraph 19 provides a simple overview of the system in Cogen-- it is completely silent with regards to motivation.

The Examiner also fails to provide any references or any other evidence in the record for why one of ordinary skill in the art would wish to selectively modify Soestbergen with the features of Cogen. The Examiner merely alleges, without any evidentiary support, that a person of ordinary skill would have desired to “make buyers aware of what is available to be purchased,” generate “more emission reducing projects,” and decrease the “likelihood of fraud.” *Id.*

Moreover, even if a person of ordinary skill would have, if presented with the particular combination of references, understood how that combination would have functioned, there is still no evidence in the record that such a person would have been motivated to modify Soestbergen in the manner described by the Examiner. *Id.*

7.2. First Group: Independent Claim 13 and Dependent Claims 14, 15 and 49

The Examiner rejects independent claim **13** and dependent claims **14, 15** and **49** under 35 U.S.C. § 103(a) as being unpatentable over Soestbergen in view of Cogen. Final Action, p. 3.

7.2.1. Legal Standard for Obviousness

The initial burden of presenting a *prima facie* case of obviousness is upon the Examiner. In re Oetiker, 977 F.2d 1443, 1445 (Fed. Cir. 1992). To reject claims under 35 U.S.C. § 103, an Examiner must show an unrebutted *prima facie* case of obviousness. In re Rouffet, 149 F.3d 1350, 1355 (Fed. Cir. 1998). To establish *prima facie* obviousness of a claimed invention, all the claim limitations must be taught or suggested by the prior art. In re Royka, 490 F.2d 981 (CCPA 1974). If the Examiner fails to establish a *prima facie* case of obviousness, the rejection is improper and will be overturned. In re Rijckaert, 9 F.3d 1531, 1532 (Fed. Cir. 1993);

Novamedix Distrib. Ltd. v. Dickinson, 175 F.Supp. 2d 8, 9 (D.D.C. 2001). In addition, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify a reference.

Graham v. Deere requires that there be motivation. Graham v. John Deere Co., 383 U.S. 1 (1966). This motivation does not exempt from the requirement of *Lee* and *Zurko* to have the finding be supported by substantial evidence. *In re Lee*, 277 F.3d 1338, 1342 (Fed. Cir. 2002); *In re Zurko*, 258 F.3d 1379, 1383-1386 (Fed. Cir. 2001). Thus, the Examiner must support with substantial evidence of record a factual finding of a suggestion or motivation to modify a reference. Novamedix Distrib. at 9; Zurko at 1383-1386; Lee at 1342.

Although the teachings, suggestions, or motivations need not always be written references, the obviousness test must proceed on the basis of *some* substantial evidence of record. See Ortho-McNeil Pharmaceutical v. Mylan Labs, 520 F.3d 1358, 1365 (Fed. Cir. 2008).

An obviousness analysis need not seek out precise teachings directed to the specific subject matter of the challenged claim, however, the rejection of a patent on obviousness grounds cannot be sustained by mere conclusory statements. KSR Int'l Co. v. Teleflex, Inc., 127 S.Ct. 1727, 1741 (2007). There must be some articulated reasoning with some rational underpinning to support a legal conclusion of obviousness. *Id.* A patent composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *Id.* at 1741. It is important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the elements in the way the claimed invention does, since claimed discoveries almost of necessity will be combinations of what, in some sense,

is already known. *Id.* A factfinder must be aware of the distortion caused by hindsight bias and must be cautious of arguments reliant upon *ex post* reasoning. *Id.* at 1742.

7.2.2. Rejection Under 35 U.S.C. § 103(a)

7.2.2.1. *No prima facie case of obviousness because the prior art does not teach all elements of the claim*

Independent claim 13 recites, *inter alia*:

providing the buyer with an emission retirement guarantee, wherein the emission retirement guarantee prevents the purchased amount of emission reduction benefit from being repurchased

(emphasis added). The Examiner concedes that Soestbergen fails to teach this limitation, but he alleges that paragraphs 6, 8, 20, 71, 76, 78 and 79 of Cogen do. Final Action, p. 5.

However, nowhere in paragraphs 6, 8, 20, 71, 76, 78 and 79 of Cogen is there a disclosure or suggestion of providing a buyer with “*an emission retirement guarantee*” that “*prevents the purchased amount of emission reduction benefit from being repurchased*” as recited in claim 13 (emphasis added). Rather the relevant portions of paragraphs 6, 8, 20, 71, 76, 78 and 79 of Cogen merely state the following:

... [A] computer-based technique for receiving verified emission reductions (VERs) associated with emission reduction projects (ERPs) and converting the VERs into mutual portfolio units (MPUs) based on predetermined factors. An emissions reduction portfolio database of MPUs is created... [para. 006]

... [A] party, such as a shareholder having an account in the portfolio, may submit VERS... associated with ERPs which may be subsequently converted to MPUs. The party may redeem one or more MPUs at any time, such as for compliance or retirement purposes... [para. 0020].

Cogen, para. 6; 20 (emphasis added).

At best, Cogen discloses redeeming a mutual portfolio unit (MPU) for retirement purposes. However, the mere act of redeeming a MPU for retirement purposes does not automatically ensure that the corresponding ERP would not be repurchased. In other words, without an express “*guarantee*” preventing its occurrence, the corresponding ERP could be repurchased at a later time. Yet, the cited-portions of Cogen provide no discussion or suggestion, whatsoever, of a “*guarantee*” that “*prevent[s] the purchased amount of emission reduction benefit from being repurchased,*” as recited by claim **13**.

Because the Examiner fails to show that the prior art teaches all elements of claim **13**, she fails to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a) for claim **13** (and claims **14**, **15** and **49**, which depend therefrom) are allowable.

7.2.2.2. No prima facie case of obviousness due to failure to provide any evidence supporting a motivation to modify Soestbergen with Cogen.

SEPARATE ARGUMENT OF PATENTABILITY

As discussed under subsection **7.2.2.1**, the Examiner concedes that Soestbergen fails to disclose certain limitations of claim **13**. Final Action, p. 5. Instead, the Examiner asserts that the cited-portions of Cogen supply the deficiencies of Soestbergen. *Id.*

However, as explained in subsection **7.2.2.1**, the cited-portions of Cogen do not, in fact, teach these features. Rather, the cited-portions of Cogen merely disclose redeeming a mutual portfolio unit (MPU) for retirement purposes. Nowhere do the cited-potions of Cogen teach or

suggest providing a “*guarantee*” that the emission reduction project would be “*prevented*” from being repurchased.

Even if Cogen did supply the deficiencies of Soestbergen, the Examiner still fails to meet her *prima facie* burden for obviousness by failing to provide evidence supporting a motivation to modify Soestbergen with Cogen.

The Examiner asserts that a person of skilled in the art would have known and desired to modify Soestbergen to include the features of Cogen in order to perform the claimed invention for the following reason:

Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the invention to *combine the benefits to buyers with emission retirement guarantees because this can lead to more emission reducing projects being converted to verified emissions reductions and less likelihood of fraud.* (Cogen paragraph 19).

Final Action, p. 6 (emphasis added).

However, the alleged motivation proffered by the Examiner for modifying Soestbergen has absolutely no basis in the references themselves or in any other evidence of record. All factual findings of the Patent and Trademark Office must be supported by substantial evidence. Since motivation to modify is a factual finding, it must be supported by some evidence.

Even though the Examiner alleges that paragraph 19 of Cogen supports the alleged motivation to modify claim **13**, in actuality, paragraph 19 of Cogen offers no such teaching or suggestion. At best, paragraph 19 provides a simple overview of the system in Cogen-- it is completely silent with regards to motivation.

In its entirety, paragraph 19 of Cogen recites:

FIG. 1 is a block diagram of an emissions reduction portfolio system 10 according to an implementation of the invention. The system 10 includes a conversion engine 16 having a conversion process for converting verified emissions reductions (VERs) 14 associated with emissions reduction projects (ERPs) 12 to mutual portfolio units (MPUs) 24. The conversion engine 16 performs this conversion based on predetermined factors associated with ERPs 14 (e.g. the technology involved in ERPs). Information related to MPUs 24 is stored in a portfolio database 20 for subsequent processing including transfer and redemption transactions. VERs required to underwrite the risks within the conversion process are stored in a reserve 22. An investment review panel 18 may evaluate the performance of the conversion engine 16. Although MPUs 24 are based on ERPs 12, MPUs have a risk profile of substantially the entire portfolio 20 and are not tied to any specific ERP.

Cogen, para. 19.

There is no discussion or suggestion, whatsoever, of a motivation to generate “*more emission reducing projects being converted to verified emissions reductions*” nor a desire to decrease the “*likelihood of fraud.*” Thus, paragraph 19 of Cogen does not provide any support for the Examiner’s alleged motivation.

The Examiner fails to provide any other references or any other evidence for why one of ordinary skill in the art would wish to selectively modify Soestbergen to “*combine the benefits to buyers with emission retirement guarantees.*” *Id.*

There also lacks any evidence in the record for why one of ordinary skill in the art would have, at the time of the invention, known or desired to generate “*more emission reducing projects being converted to verified emission reductions*” and/or decrease the “*likelihood of fraud.*” *Id.* There is no discussion or suggestion, whatsoever, in paragraph 19 of Cogen, of such a motivation.

Furthermore, even if a person of ordinary skill in the art did have the desire to generate “*more emission reducing projects being converted to verified emission reductions*” and/or decrease the “*likelihood of fraud*,” there is still no evidence that such a person would have sought to accomplish this goal by modifying Soestbergen with “*combin[ing] the benefits to buyers with emission retirement guarantees*,” as alleged by the Examiner. *Id.* There is no reasoning provided why the latter would follow from the former, and the two would only appear disconnected and unrelated to the person of ordinary skill.

Since there has been no evidence offered, and no reasoning based on evidence, for a motivation to combine or modify the references in the manner the Examiner has proposed, Applicants cannot address the reasoning behind the obviousness rejection, and a *prima facie* showing of obviousness has not been made for claim **13** (and claims **14**, **15** and **49** which depend therefrom).

7.3. Second Group: Claim 20

The Examiner rejects claim **20** under 35 U.S.C. § 103(a) as being unpatentable over Soestbergen in view of Cogen. Final Action, p. 7

7.3.1. Rejection Under 35 U.S.C. § 103(a)

7.3.1.1. *No prima facie case of obviousness because the prior art does not teach all elements of the claim*

SEPARATE ARGUMENT OF PATENTABILITY

Claim **20** recites a method for “*providing the buyer with a listing that displays a plurality of emission reducing projects*.”

The Examiner concedes that Soestbergen fails to teach this limitation, but he alleges that paragraphs 50 and 59 of Cogen do. Final Action, p. 7.

However, nowhere in paragraphs 50 and 59 of Cogen is there a disclosure or suggestion of “*providing the buyer with a listing that displays a plurality of emission reducing projects*,” as recited in claim 20. In its entirety, paragraphs 50 and 59 of Cogen state the following:

[0050] FIG. 2 is a flow chart 100 of a process for handling ERPs 12 in a portfolio system 10 according to an implementation of the invention (see FIG. 1). The process 100 determines (block 102) whether a seller of VERs 14 is seeking to present the VERs to the system for deposit into the system 10. If the seller does present VERs 14, then the process 100 receives (block 104) VERs from the seller. The process 100 may track VERs 14 by creating a record in a database for each VER. The record may include identification information such as an account number related to the seller of the VER, a serial number of each VER tonne deposited, a code for each type of VER deposited, a code for the country where the ERP takes place, a code identifying the verifier, the date of verification, the date/time of deposit, and other information. [0050]

...

[0056] The process 10 determines (block 110) whether a party is interested in transferring MPUs. If there is a request to transfer MPUs, then the process 100 handles (block 112) the request to transfer ownership of MPUs between parties. Transferring MPUs to purchasers is managed to ensure compliance with regulatory requirements for interacting with a National Registry. For example, UNFCCC has issued a number of reporting requirements for GHG registries. In addition, there is a requirement that national jurisdictions make the name and location of account owners, contact details and the quantity of emissions, by account, publicly accessible at any time.

...

[0059] A national registry may have a requirement to maintain a publicly available record of the emissions reductions. This may include a serial number linking to the following information: project name, project location, both the party and the town/region in which the project is located; year of issue. In addition,

information is required on project documentation available electronically on areas such as: project design documents; validation reports; notifications of registration; monitoring reports; verification projects; notification of certification; and notification of issuance of VERs for each project. [0059]

Cogen, para. 50; 56; 59 (emphasis added).

At best, paragraphs 50 and 59 of Cogen merely disclose: “creating a record in a database for each VER,” in which these records are used to “ensure compliance with regulatory requirements” during the transfer of mutual portfolio units (MPUs). See Cogen, para. 50, 56. The records are “publicly available” and maintained in a “national registry.” See Cogen, para. 59.

Nowhere does Cogen teach or suggest a listing that “*displays a plurality of emission reducing projects*” to buyers. In other words, Cogen merely discloses creating records in a database for the purposes of complying with regulatory requirements. There is no teaching or suggestion, whatsoever, of providing a buyer with a listing of emission projects to be selected for purchase.

Because the Examiner fails to show that the prior art teaches all elements of claim **20**, she fails to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a) for the claim.

7.3.1.2.No prima facie case of obviousness due to failure to provide any evidence supporting a motivation to modify Soestbergen with Cogen.

SEPARATE ARGUMENT OF PATENTABILITY

As discussed under subsection 7.3.1.1, the Examiner concedes that Soestbergen fails to disclose certain limitations of claim 20. Office Action, p. 7. Instead, the Examiner incorrectly asserts that the cited-portions of Cogen supply the deficiencies of Soestbergen. *Id.*

However, as explained in subsection 7.3.1.1, the cited-portions of Cogen do not, in fact, teach these features. Rather, the cited-portions of Cogen merely disclose creating records in a database for the purposes of complying with regulatory requirements. There is no teaching or suggestion, whatsoever, of providing buyers with listing that “*displays a plurality of emission reducing projects*” to be selected for purchase, as recited in claim 20.

Even if Cogen did supply the deficiencies of Soestbergen, the Examiner still fails to meet the *prima facie* burden for obviousness by failing to provide any evidence supporting a motivation to modify Soestbergen with Cogen.

The Examiner asserts that a person of skilled in the art would have known and desired to modify Soestbergen to include the features of Cogen in order to perform the claimed invention for the following reason:

Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the invention to *combine the benefits with the display of the projects because of the need to make buyers aware of what is available to be purchased*.

Final Action, p. 7 (emphasis added).

Although not clearly stated, it is presumed that the Examiner intends “the benefits” and “the projects” to refer, respectively, the benefit of “*providing the buyer with a listing*” and “*emission reducing projects*,” as recited in claim 20.

However, the alleged motivation proffered by the Examiner for modifying Soestbergen has absolutely no basis in the references themselves or in any other evidence of record.

The Examiner fails to cite any references or any other evidence for why one of ordinary skill in the art would wish to selectively modify Soestbergen to “*combine the benefits with the display of the projects.*” *Id.*

There also lacks any evidence in the record for why one of ordinary skill in the art would have, at the time of the invention, known or desired to “*make buyers aware of what is available to be purchased.*” *Id.*

Furthermore, even if a person of ordinary skill in the art did have the desire to “*make buyers aware of what is available to be purchased,*” there is still no evidence that such a person would have sought to accomplish this goal by modifying Soestbergen with “*the display of the projects,*” as alleged by the Examiner. *Id.* There is no reasoning provided why the latter would follow from the former, and the two would only appear disconnected and unrelated to the person of ordinary skill.

Since there has been no evidence offered, and no reasoning based on evidence, for a motivation to combine or modify the references in the manner the Examiner has proposed, Applicants cannot address the reasoning behind the obviousness rejection, and a *prima facie* showing of obviousness has not been made.

7.4. Third Group: Dependent Claim 21

The Examiner rejects claim **21** under 35 U.S.C. § 103(a) as being unpatentable over Soestbergen in view of Cogen. Final Action, pp. 7-8.

7.4.1. Rejection Under 35 U.S.C. § 103(a)

7.4.1.1. No prima facie case of obviousness because the prior art does not teach all elements of the claim

SEPARATE ARGUMENT OF PATENTABILITY

Claim **21** recites a method for “*providing the buyer with an opportunity to search for the emission reducing project*” (emphasis added).

The Examiner concedes that Soestbergen fails to teach this limitation, but he alleges that paragraphs 50 and 59 of Cogen do. Final Action, p. 8.

As described in subsection 7.3.1.1, paragraphs 50 and 59 of Cogen merely disclose creating records in a database for the purposes of complying with regulatory requirements. There is no teaching or suggestion, whatsoever, of an ability “*to search*” for a particular emission reducing project.

Because the Examiner fails to show that the prior art teaches all elements of claim **21**, she fails to establish a *prima facie* case of obviousness under 35 U.S.C. §103(a) for the claim.

7.4.1.2. No prima facie case of obviousness due to failure to provide any evidence supporting a motivation to modify Soestbergen with Cogen.

SEPARATE ARGUMENT OF PATENTABILITY

As discussed under subsection 7.4.1.1, the Examiner concedes that Soestbergen fails to disclose certain limitations of claim 21. Final Action, pp. 7-8. Instead, the Examiner incorrectly asserts that the cited-portions of Cogen supply the deficiencies of Soestbergen. *Id.*

However, as explained in subsection 7.4.1.1, the cited-portions of Cogen do not, in fact, teach these features. Rather, the cited-portions of Cogen merely disclose creating records in a database for the purposes of complying with regulatory requirements. There is no teaching or suggestion, whatsoever, of “*providing the buyer with an opportunity to search for the emission reducing project*,” as recited in claim 21.

Even if Cogen did supply the deficiencies of Soestbergen, the Examiner still fails to meet her *prima facie* burden for obviousness by failing to provide evidence supporting a motivation to modify Soestbergen with Cogen.

The Examiner asserts that a person of skilled in the art would have known and desired to modify Soestbergen to include the features of Cogen in order to perform the claimed invention for the following reason:

Therefore, it would have been obvious to one of ordinary skilled in the art at the time of the invention to *combine the benefits to buyers with the ability to search for projects because of the need to make buyers aware of what is available to be purchased*.

Final Action, p. 8 (emphasis added).

However, the alleged motivation proffered by the Examiner for modifying Soestbergen has absolutely no basis in the references themselves or in any other evidence of record.

The Examiner fails to cite any references or any other evidence for why one of ordinary skill in the art would wish to selectively modify Soestbergen to “*combine the benefits to buyers with the ability to search for projects.*” *Id.*

There also lacks any evidence in the record for why one of ordinary skill in the art would have, at the time of the invention, known or desired to “*make buyers aware of what is available to be purchased.*” *Id.*

Furthermore, even if a person of ordinary skill in the art did have the desire to “*make buyers aware of what is available to be purchased,*” there is still no evidence that such a person would have sought to accomplish this goal by modifying Soestbergen with “*the ability to search for projects,*” as alleged by the Examiner. *Id.* There is no reasoning provided why the latter would follow from the former, and the two would only appear disconnected and unrelated to the person of ordinary skill.

Since there has been no evidence offered, and no reasoning based on evidence, for a motivation to combine or modify the references in the manner the Examiner has proposed, Applicants cannot address the reasoning behind the obviousness rejection, and a *prima facie* showing of obviousness has not been made.

7.5. Conclusion

In view of the foregoing, Appellants submit that all of the pending claims are in proper condition for allowance, and the Board is respectfully requested to overturn the Examiner’s rejection of these claims.

Respectfully submitted,

September 17, 2009
Date

_____/Ruth J. Ma/_____
Ruth J. Ma
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Attorney for Appellants

8. CLAIMS APPENDIX

1-12. Cancelled.

13. (Previously Presented) A method for the electronic trading of emission reduction benefits, the method comprising:

storing a volume of emission reduction benefit in a memory associated with at least one computing device, the volume of emission reduction benefit derived from at least one emission reduction project created by a supplier in connection with carbon dioxide equivalent emissions of the supplier;

receiving an indication, from a buyer at a point of sale terminal in communication with the at least one computing device, to purchase at least one of a product and a service;

determining an amount of carbon dioxide reduction benefit necessary for the at least one of the product and the service to be emission neutral based at least in part of an amount of carbon dioxide generated by the at least one of the product and the service;

communicating to the buyer the amount of carbon dioxide reduction benefit necessary for the at least one of the product or the service to be emission neutral;

receiving a request from the buyer to purchase at least a portion of the amount of carbon dioxide reduction benefit necessary for the at least one of the product or the service to be emission neutral;

reducing the volume of emission reduction benefit to account for the at least a portion of the carbon dioxide benefit purchased by the buyer; and

in response to receiving the purchase, providing the buyer with an emission retirement guarantee, wherein the emission retirement guarantee prevents the purchased amount of emission reduction benefit from being repurchased.

14. (Original) The method of claim 13, wherein the providing further comprises:

15. (Previously Presented) The method of claim 13, wherein the stored volume for emission reduction benefit comprises an aggregate emission reduction benefits from a plurality of suppliers.

16-19. Cancelled.

20. (Previously Presented) The method of claim 13 further comprising providing the buyer with a listing that displays a plurality of emission reducing projects that will be reduced to account for buyers purchased carbon dioxide reduction benefit.

21. (Original) The method of claim 13, further comprising providing the buyer with an opportunity to search for the emission reducing project.

22-48. Cancelled.

49. (Previously Presented) The method of claim 13 comprising determining a price for the determined amount of carbon dioxide reduction benefit necessary for the at least one of the product and service to be emission neutral and communicating to the buyer the determined price.

9. EVIDENCE APPENDIX

None.

10. RELATED PROCEEDINGS APPENDIX

None.